

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

BILLY RION,

Plaintiff,

v.

No. CIV 11-0269 JB/CEG

BERNALILLO COUNTY SHERIFFS:

A. MEDRANO #3566, D. HIX #3759,

SHARP #3657, ERB #3642,

T. JAMES, TWO (2) UNNAMED MDC NURSES,

OFFICER LANGHI, OFFICER C. LINEHAM,

JOHN SUGGS (D.A.), and ROBERT HEDRICK (P.D. DEPT.),

Defendants.

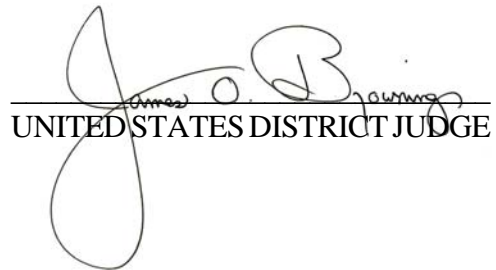
**ORDER DISMISSING CERTAIN CLAIMS AND TO SHOW CAUSE**

**THIS MATTER** comes before the Court sua sponte pursuant to 28 U.S.C. § 1915(d), and rules 4(c)(3) and 12(b)(5) of the Federal Rules of Civil Procedure. By order entered on December 15, 2011, the Court directed Plaintiff Billy Rion to show cause why the Court should not dismiss his claims against Defendant Officer C. Lineham for failure to provide a current address for serving this Defendant. See Order at 1, filed December 15, 2011 (Doc. 27)(“Dec. 15, 2011 Order”). Rion has not responded to the Order or otherwise shown cause to excuse the failure. Accordingly, the Court will dismiss Rion’s claims against Lineham.

In other orders, see Memorandum Opinion and Order at 4, filed August 12, 2011 (Doc. 14)(“Aug. 12, 2011 MOO”); Order for Initial Martinez Report at 1, filed November 16, 2011 (Doc. 21)(Garza, M.J.)(“Nov. 16, 2011 Order”), the Court directed the parties to provide information for

serving Defendants Two (2) Unnamed MDC Nurses. The Defendants filed a Martinez Report,<sup>1</sup> and a supplement, providing information about medical staff who were on duty when Rion was booked into the Metropolitan Detention Center. See County Defendants' Martinez Report, filed December 13, 2011 (Doc. 25)(“Martinez Report”); Supplement to County Defendants' Martinez Report, filed December 16, 2011 (Doc. 29)(“Supplement”). Rion has not responded to the Martinez Report or otherwise identified the Two (2) Unnamed MDC Nurses. The Court will order Rion to show cause why the Court should not dismiss his claims against the Two (2) Unnamed MDC Nurses. See Roper v. Grayson, 81 F.3d 124, 126 (10th Cir. 1996); Lujan ex rel. Lujan v. Cnty. of Bernalillo, 354 F.App'x 322, 325 (10th Cir. 2009).

**IT IS ORDERED** that: (i) Plaintiff Billy Rion's claims against Defendant Officer C. Lineham are dismissed without prejudice; (ii) Lineham is dismissed as a party to this action; and (iii) within fourteen (14) days from entry of this order, Rion must show cause why the Court should not dismiss his claims against the Defendants Two (2) Unnamed MDC Nurses.



UNITED STATES DISTRICT JUDGE

*Parties and counsel:*

Billy Rion  
Lea County Correctional Facility  
Hobbs, New Mexico

*Plaintiff pro se*

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<sup>1</sup>See Martinez v. Aaron, 570 F.2d 317 (10th Cir. 1978). “When the pro se plaintiff is a prisoner, a court-authorized investigation and report by prison officials (referred to as a Martinez report) is not only proper, but may be necessary to develop a record sufficient to ascertain whether there are any factual or legal bases for the prisoner's claims.” Hall v. Bellmon, 935 F.2d 1106, 1109 (10th Cir. 1991).

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